

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ROY GILMORE,

4 Plaintiff

5 v.

6 RENO JUSTICE COURT,

7 Defendant
8

Case No.: 3:20-cv-00570-RCJ -WGC

**Report & Recommendation of
United States Magistrate Judge**

Re: ECF No. 1-1

9 This Report and Recommendation is made to the Honorable Robert C. Jones, United
10 States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28
11 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

12 Plaintiff is currently incarcerated within the Fremont Correctional Facility in Canon City,
13 Colorado. He has filed an application to proceed *in forma pauperis* (IFP) (ECF No. 1-1) and
14 petition for writ of mandamus. He contends that he has been incarcerated in Colorado for one
15 and a half years longer than necessary due to pending charges in Washoe County, that he claims
16 are languishing. He asserts that he has filed several motions, as well as written letters to the
17 District Attorney and Judge assigned to his case, to no avail. He avers that he cannot progress
18 within his current institution or begin reintegration as a result of these pending charges. He
19 claims that this violates his rights to a speedy trial. He asks that Washoe County Courts be
20 mandated to dismiss the charges or bring him to Reno to be tried.

21 The *Younger* abstention doctrine provides that federal courts, in the absence of
22 extraordinary circumstances, cannot interfere with a pending state court criminal prosecution.
23 *Younger v. Harris*, 401 U.S. 37 (1971). Under this doctrine, this court cannot provide the relief

1 Plaintiff currently seeks. Plaintiff must seek (or continue to seek) such relief within the state
2 court system. Since the court cannot effect the relief requested, Plaintiff's application for leave to
3 proceed IFP should be denied, and this action should be dismissed.

4 **RECOMMENDATION**


5 IT IS HEREBY RECOMMENDED that the District Judge enter an order **DENYING**
6 Plaintiff's application to proceed IFP (ECF No. 1) and **DISMISSING** this action.

7 Plaintiff should be aware of the following:

8 1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to
9 this Report and Recommendation within fourteen days of being served with a copy of the Report
10 and Recommendation. These objections should be titled "Objections to Magistrate Judge's
11 Report and Recommendation" and should be accompanied by points and authorities for
12 consideration by the district judge.

13 2. That this Report and Recommendation is not an appealable order and that any notice of
14 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed
15 until entry of judgment by the district court.

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17 Dated: March 29, 2021

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19 William G. Cobb
20 United States Magistrate Judge
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